

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CARLENE BECHEN, ELVIRA
BUMPUS, RONALD BIENDSEI, LESLIE W.
DAVIS, III, BRETT ECKSTEIN, GEORGIA
ROGERS, RICHARD KRESBACH, ROCHELLE
MOORE, AMY RISSEEUW, JUDY ROBSON,
JEANNE SANCHEZ-BELL, CECELIA
SCHLIEPP, TRAVIS THYSSEN and
CINDY BARBERA,

Plaintiffs,

Case No. 11-C-562
JPS-DPW-RMD

TAMMY BALDWIN, GWENDOLYNNE
MOORE, and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government
Accountability Board, each only in his official
capacity: MICHAEL BRENNAN,
DAVID DEININGER, GERALD NICHOL,
THOMAS CANE, THOMAS BARLAND,
TIMOTHY VOCKE, and KEVIN KENNEDY,
Director and General Counsel for the Wisconsin
Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR.,
THOMAS E. PETRI, PAUL D. RYAN, JR.,
REID J. RIBBLE, and SEAN P. DUFFY,

Intervenor-Defendants.

VOCES DE LA FRONTERA, INC., RAMIRO
VARA, OLGA VARA, JOSE PEREZ, and ERICA
RAMIREZ,

Plaintiffs,

Case No. 11-CV-1011
JPS-DPW-RMD

v.

Members of the Wisconsin Government
Accountability Board, each only in his official
capacity: MICHAEL BRENNAN, DAVID
DEININGER, GERALD NICHOL, THOMAS
CANE, THOMAS BARLAND, TIMOTHY
VOCKE, and KEVIN KENNEDY, Director and
General Counsel for the Wisconsin Government
Accountability Board,

Defendants.

**DEFENDANTS' SUPPLEMENTAL ANSWERS TO PLAINTIFFS' FIRST
SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS**

The defendants, the Members of the Wisconsin Government Accountability Board ("GAB"), Michael Brennan, David Deininger, Gerald Nichol, Thomas Cane, and Thomas Barland, each in his official capacity only, and Kevin Kennedy, in his official capacity as Director and General Counsel for the GAB only, by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, and Reinhart Boerner Van Deuren s.c., by Patrick J. Hodan, Daniel Kelly and Colleen E. Fielkow, hereby supplement their answer to Plaintiffs' First Set of Interrogatories and First Request for Production of Documents ("Discovery Requests") as follows:

GENERAL OBJECTIONS

1. Defendants object to plaintiffs' Discovery Requests to the extent they call for information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable doctrine or privilege. The inadvertent disclosure of privileged or protected information or documents by defendants may not be deemed to be a waiver of any applicable privilege or protection with respect to such information or documents or the subject matter of the information or documents, and defendants reserve the right to seek the return and/or destruction of any information or document that was inadvertently produced.

2. Defendants object to plaintiffs' Discovery Requests to the extent they seek responses by persons or entities other than defendants and to the extent they seek information or documents not within defendants' possession, custody, or control.

3. Defendants object to plaintiffs' definition of "you" and "your" because it seeks information from "all other persons acting on behalf of or in concert with defendants, including, but not limited to, attorneys, investigators, employees or agents." Other than the individual defendants acting in their official capacity at the GAB and the GAB employees, defendants object to answering on behalf of any other persons. Specifically, plaintiffs' requests for information from or relating to work by GAB's litigation counsel are impermissible under the attorney client and work product privileges.

4. Defendants object to plaintiffs' requests for documents to the extent they seek documents that are not in the possession or under the control of the GAB and the named individuals in their official capacities.

5. Defendants object to plaintiffs' Discovery Requests to the extent they purport to impose obligations on defendants beyond those permitted under the Federal Rules of Civil Procedure and/or local court rule.

6. Defendants object to plaintiffs' Discovery Requests as overbroad and unduly burdensome to the extent that they seek the identification of "all" and "any" facts or documents concerning a given subject matter. Defendants further object to plaintiffs' request of it to "identify" or "describe" facts and circumstances as overly broad and unduly burdensome. Defendants' investigation is continuing, and defendants reserve the right to supplement and/or amend their responses to plaintiffs' Discovery Requests as additional information is obtained.

7. Defendants object to plaintiffs' Discovery Requests to the extent they are vague, ambiguous, unduly burdensome, oppressive, irrelevant, and/or not reasonably particular.

8. Defendants object to plaintiffs' Discovery Requests to the extent they seek information that is a matter of public record, is publicly available, or is otherwise equally accessible to all parties.

9. Defendants object to plaintiffs' Discovery Requests to the extent they seek information or documents that are not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or are otherwise outside the proper scope of discovery.

10. Defendants object to plaintiffs' Discovery Requests to the extent they relate to any legal conclusion or application of any legal concept or call for an expert opinion or testimony.

11. Defendants object to plaintiffs' Discovery Requests to the extent they seek cumulative or duplicative information.

12. Defendants object to plaintiffs' Discovery Requests as overly broad because they are not limited in time or scope to the time period in question.

13. Defendants' agreement to produce any category of documents is not a representation that any such documents in that category actually exist and can be located through a reasonable search.

14. Defendants expressly preserve all objections it may have to the genuineness, authenticity, relevance, and/or admissibility of the information or documents sought by plaintiffs' Discovery Requests.

15. Defendants object to plaintiffs' requests for information in possession of "other persons, firms, partnerships, corporations or associations," that are not subject to the defendants' control. Defendants further object to plaintiffs' requests for information by "employees, contractors and agents of the Wisconsin State Senate and the Wisconsin State Assembly." These requests for information are overbroad and defendants' answers herein are based on information possessed by the GAB and the named individuals in their official capacities.

INTERROGATORIES

INTERROGATORY NO. 1:

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the Rule 26(a) submission you exchanged with plaintiffs' counsel on November 16, 2011—whether before, during or after the submission's preparation.

ANSWER:

Defendants object to Interrogatory No. 1 to the extent it calls for information protected by the attorney client privilege, work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that their Rule 26(a) Disclosure was prepared with the advice and consultation of their counsel who investigated and drafted the November 16, 2011 Rule 26(a) Disclosure and subsequent amendment. Further answering, members of the GAB asked representatives at the Legislative Reference Bureau and Legislative Technology Services Bureau on or about November 14, 2011, whether they had been contacted about the defendants' Rule 26(a) Disclosure.

INTERROGATORY NO. 2:

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your "Defendants' Answer and Affirmative Defenses . . ." (the "Answer") that you filed on November 4, 2011. Identify, in addition, all of the individuals or entities with whom or with which you shared either: a) any draft of that Answer and/or b) a copy of that Answer once filed.

ANSWER:

Defendants object to Interrogatory No. 2 to the extent it calls for information protected by attorney client privilege work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible

evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that their Answers were prepared with the advice and consultation of their counsel who investigated and drafted the November 4 and 25, 2011 pleadings. Further answering, defendants state that they have not shared drafts of GAB pleadings in this matter with third persons outside the GAB, other than their counsel. Further answering, defendants state that they have not shared a copy of the filed Answer with third persons outside the GAB, other than their counsel.

INTERROGATORY NO. 3:

Please identify all of the individuals with whom you have had communications about the possibility or necessity of testifying as a lay or expert witness at the trial of this matter.

ANSWER:

Defendants object to Interrogatory No. 3 to the extent it calls for information protected by the attorney client privilege work product doctrine and/or the common or joint interest privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants direct plaintiffs to their Amended Rule 26(a) Disclosure dated November 25, 2011 and future amendments, if any. Further answering, defendants will disclose the report(s) of their testifying expert(s) pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further answer by stating the following experts, who have been disclosed to Plaintiffs through expert reports to date, are expected to testify at trial on behalf of Defendants:

- a. Professor Ronald Keith Gaddie
- b. Peter A. Morrison, Ph.D.
- c. Mr. John Diez
- d. Professor Bernard Grofman

Further answering, if implementation issues relating to Acts 43 and 44 are allowed as evidence in this trial, which Defendants submit should not be as they are irrelevant, Defendants may communicate with additional individuals as lay witnesses and expert witnesses to address this evidence and/or any claims by Plaintiffs related to implementation of the maps. Further answering, if the parties are unable to reach a stipulation regarding demographic data, Defendants may communicate with LTSB representatives about testifying about the authenticity of the 2010 Census data.

INTERROGATORY NO. 4:

Please identify all of the individuals, other than those employed at the Department of Justice, who have reviewed any draft materials of any kind connected with this litigation. If any of those individuals are members of the State Bar of Wisconsin, identify them along with the basis for the relationship between you and the individual.

ANSWER:

Defendants object to Interrogatory No. 4 because it calls for information protected by the attorney client privilege work product doctrine and/or the common or joint interest

privilege. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving these objections and the foregoing General Objections, defendants state that they have not shared drafts of GAB pleadings in this matter with third persons outside the GAB, other than their counsel.

INTERROGATORY NO. 5:

Please identify all of the "individuals" to which you refer anonymously in paragraphs 2 through 10 of Defendants' Disclosures.

ANSWER:

Defendants object to Interrogatory No. 5 to the extent it seeks information subject to the attorney client privilege and work product doctrine. Defendants further object to the term "anonymously" on the grounds this request mischaracterizes defendants' original initial Rule 26(a) Disclosure dated November 16, 2011. To the extent this request seeks information beyond the information located in Defendants' Amended Rule 26(a) Disclosure, defendants object to the vague and overbroad nature of this request. Without waiving these objections and the foregoing General Objections, defendants state that additional names were added to the Defendants' Amended Rule 26(a) Disclosure, to-wit: Adam Foltz, Tad Ottman and Joseph Handrick (paragraphs 2-9). Additionally, the defendants identified Professor Ronald Keith Gaddie (factual and expert testimony).

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object to the term "anonymously" on the

grounds this request mischaracterizes Defendants' Amended Initial Rule 26(a) Disclosures dated November 25, 2011. Defendants further answer by stating the following: Based on the deposition testimony to date and the documents provided from the Legislature, which was equally available to all parties, it appears that Joseph Handrick, Adam Foltz, Tad Ottman, Andy Speth, Keith Gaddie, attorneys for the Legislature, and various legislators played some role in the development of maps along with third parties who appear to have been consulted, including Zeus Rodriguez and representatives of MALDEF. For an exhaustive list of the individuals, Defendants would direct Plaintiffs to the deposition transcripts and documents produced by the Legislature.

INTERROGATORY NO. 6:

Please identify all of the "experts" to which you refer anonymously in paragraphs 11 and 12 of Defendants' Disclosures.

ANSWER:

Defendants object to Interrogatory No. 6 to the extent it seeks information subject to the attorney client privilege and work product protection. Defendants further object to the term "anonymously" on the grounds this Request mischaracterizes defendants' original initial Rule 26(a) Disclosure dated November 16, 2011. Without waiving these objections and the foregoing General Objections, defendants state their testifying expert report(s) will be exchanged with plaintiffs pursuant to the Scheduling Order.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object on the grounds that Defendants filed Amended Initial Rule 26(a) Disclosures dated November 25, 2011, and paragraphs

11 and 12 of those Disclosures do not refer to anyone "anonymously." Defendants further answer by stating the following: see Supplemental Answer to Interrogatory No. 5.

INTERROGATORY NO. 7:

Please identify and describe the "state and/or governmental interests" that, in your Answer you maintain are "directly advance[d]" by the new redistricting law and describe how they are advanced.

ANSWER:

Defendants object to Interrogatory No. 7 to the extent it inappropriately calls for a legal analysis or explanation of the legal basis for defendants' defenses to plaintiffs' claims. Defendants further object as the request fails to specifically identify where the quoted phrases are located in defendants' Answer to Plaintiff's First Amended Complaint. Defendants reserve the right to assert any and all interests at trial and that the Court, itself, is entitled to rely upon any interests that it identifies. The redistricting Acts are presumed to be valid, *Davis v. Grover*, 166 Wis. 2d 501, 520, 480 N.W.2d 460 (1992), and the burden is on the plaintiffs—as challengers—to prove beyond a reasonable doubt that they are unconstitutional. *State v. Chvala*, 2004 WI App 53, ¶ 9, 271 Wis. 2d 115, 678 N.W.2d 880; *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis. 2d 32, 46, 205 N.W.2d 784 (1973). It is not enough that a challenger establish doubt as to an act's constitutionality nor is it sufficient that a challenger establish the unconstitutionality of an act is a possibility. *Id.* If any doubt exists, it must be resolved in favor of constitutionality. *State ex rel. Thomson v. Giessel*, 265 Wis. 558, 564, 61 N.W.2d 903 (1953). Finally, the appropriate standard is not that the present redistricting maps are the best maps possible or that they serve the state or governmental interests better than any alternative. *Prosser v. Wisconsin Elections Board*, 793 F. Supp. 859, 867 (W.D. Wis.

1992). “The Constitution does not require that the Legislature adopt the best plan ‘that any ingenious mind can devise.’” *Mayor of Cambridge v. Sec. of Commonwealth*, 765 N.E.2d 749, 756 (Mass. 2002) (quoting *Atty. Gen. v. Sec. of the Commonwealth*, 27 N.E.2d 265, 269 (Mass. 1940)).

Without waiving these objections and the foregoing General Objections, defendants state that the state and/or governmental interests advanced by 2011 Wisconsin Acts 43 and 44 consist of having redistricting maps that comply with state and federal constitutional requirements.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further answer that additional support for Defendants' Answer can be found in Defendants' expert reports, which were exchanged with Plaintiffs pursuant to the Scheduling Order, on December 14, 2011 and January 13, 2012.

INTERROGATORY NO. 8:

Please identify all of the individuals or entities with whom or with which you consulted or communicated regarding the preparation of your responses to these interrogatories and document requests.

ANSWER:

Defendants object to Interrogatory No. 8 to the extent it seeks information subject to the attorney client privilege and work product doctrine. Defendants also object to the extent this Interrogatory seeks information that is not relevant to the subject matter of this action or to the claims or defenses of any party, are not reasonably calculated to lead to the discovery of admissible evidence, or otherwise outside the proper scope of discovery. Without waiving this objection and the foregoing General Objections, defendants state

these responses were prepared with the assistance and advice of counsel based on an investigation and interviews conducted by defendants' counsel.

INTERROGATORY NO. 9:

Please identify all facts that support the Defendant's assertion that the 2011 maps are constitutional.

ANSWER:

Defendants object to Interrogatory No. 9 to the extent it inappropriately calls for a legal analysis or explanation of the legal basis for defendants' defenses to plaintiffs' claims. Defendants further object to the use of the phrase "2011 maps" as undefined and vague, but for purpose of answering this Interrogatory, the defendants will understand "2011 maps" as referring to 2011 Wisconsin Acts 43 and 44. Defendants further object to plaintiffs' request for "all" facts as overbroad. Defendants further object to the extent this request seeks information and facts subject to expert opinion, which shall be provided pursuant to the Scheduling Order. The redistricting Acts are presumed to be valid, *Davis v. Grover*, 166 Wis. 2d 501, 520, 480 N.W.2d 460 (1992), and the burden is on the plaintiffs—as challengers—to prove beyond a reasonable doubt that they are unconstitutional. *State v. Chvala*, 2004 WI App 53, ¶ 9, 271 Wis. 2d 115, 678 N.W.2d 880; *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis. 2d 32, 46, 205 N.W.2d 784 (1973). It is not enough that a challenger establish doubt as to an act's constitutionality nor is it sufficient that a challenger establish the unconstitutionality of an act is a possibility. *Id.* If any doubt exists, it must be resolved in favor of constitutionality. *State ex rel. Thomson v. Giessel*, 265 Wis. 558, 564, 61 N.W.2d 903 (1953).

Subject to and without waiving these objections and the foregoing General Objections, defendants state the following facts and data demonstrate the constitutionality of the legislative districts created by Acts 43 and 44: the population of Wisconsin as recorded in the decennial census conducted by the federal government from 1970 to present; the legislative and congressional maps created by the legislature and federal court panels since 1970 (including the facts and data underlying and contained therein); data held by the Legislative Reference Bureau and Legislative Technology Services Bureau; to the extent that the Court determines that legislative intent is relevant to determining the constitutionality of the maps, legislative intent; and all facts and data used or calculated by experts in this case. Further answering, expert analysis of the previous and following enumerated facts and data, as well as other facts as evaluated by defendants' expert(s) as deemed necessary, will demonstrate the constitutionality of the 2011 legislative districts: historical election data from Wisconsin, delayed voting data from Wisconsin and other states; and calculations and other analyses of compactness, contiguity, core retention, political pairings and other categories as determined by expert analysis. Defendants' investigation is ongoing and defendants reserve the right to disclose additional facts and data as it becomes known or relevant to this action.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further answer that additional support for Defendants' position can be found in Defendants' expert reports, which were exchanged with Plaintiffs pursuant to the Scheduling Order, on December 14, 2011 and January 13, 2012.

REQUESTS FOR PRODUCTION

SUPPLEMENTAL RESPONSE TO ALL REQUESTS:

Defendants have produced or identified the following specific documents and data to Plaintiffs either as part of their Rule 26(a) Amended Disclosures or responsive to Plaintiffs' discovery requests:

Date Produced /Disclosed	Description of Documents and Data
12/8/11	2011-2012 Legislature Statistics and Maps Appendix to: 2011 Act 43
12/8/11	Act 43 Demographics: Data related to 99 Assembly districts and 33 Senate districts, including population, ideal population, percentage difference between the two, and percentage population of various ethnic groups
12/8/11	2011-2012 Legislature Statistics and Maps Appendix to: 2011 Act 44
12/8/11	Act 44 Demographics: Data related to 8 Congressional districts, including target population, percentage deviation, and percentage population of various ethnic groups
12/12/11	Thumb Drive with LTSB census files
12/12/11	Statewide 10 folder and ward lines
12/12/11	Copy of Joint Public Hearing Transcript of 7/13/11
12/12/11	Three Large Maps according to Acts 43 and 44
1/11/12	6 pdf maps from Legislature
1/18/12	Expert data produced by Peter A. Morrison, Ph.D. (Thumbdrive)
1/20/12	Expert data produced by Prof. R. Keith Gaddie (Thumbdrive)
1/23/12	Expert data produced by John Diez (Thumbdrive)

REQUEST FOR PRODUCTION NO. 1:

Please produce any and all documents that defendants intend to introduce at the trial of this matter, scheduled for February 21 through 24, 2012, or whenever held.

RESPONSE:

Subject to and without waiving the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control that defendants reasonably understand to be responsive to this request. No decisions have yet been made as to what will or will not be used as evidence at trial.

Defendants investigation is ongoing and reserves the right to identify and disclose additional data and documents as they become known or relevant to this action.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants shall identify their trial exhibits pursuant to the Court's Trial Scheduling Order, dated December 15, 2011 (Docket # 79). Defendants further respond that Defendants intend to introduce at trial all documents and data listed in Defendants' Supplemental Response to All Requests, data and documents referred to or relied upon by any expert identified in this matter, the demographic data relating to the maps, any deposition exhibits in this matter and any documents or data produced by any party or third-party as part of this suit (the latter two categories to also include exhibits identified and documents produced after the date of these Supplemented responses). It is unknown at this time what additional document(s) may relate to Plaintiffs' new requests for documents and information on the implementation of the maps. Defendants believe such information is irrelevant, as raised in its withdrawn motion for Protective Order. Consistent with the parties' stipulation to withdraw their respective motions, and their informal agreement that such requests be reasonable, Defendants will produce documents on that topic. If the Court deems these documents and

testimony to be relevant and allowed at trial, Defendants will rely on additional documents and information, still unidentified, to rebut and defend against claims on the implementation of the maps. Defendants further reserve their right to introduce documents (yet unknown) for impeachment purposes.

REQUEST FOR PRODUCTION NO. 2:

Please produce any and all documents identified in response or in connection with the preparation of the responses to the Interrogatories above.

RESPONSE:

Defendants object to Request No. 2 to the extent it calls for documents protected by the attorney client privilege, the attorney work product doctrine or any other applicable privilege or doctrine. Subject to and without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control that defendants reasonably understand to be responsive to this request.

REQUEST FOR PRODUCTION NO. 3:

Please produce the "documents," including the "expert reports" and other materials that you identified in the Defendants' Disclosures and that you admit you already have in your actual, possession, custody and control.

RESPONSE:

Defendants object to Request No. 3 to the extent it calls for documents protected by the attorney client privilege, the attorney work product doctrine or any other applicable privilege or doctrine. Defendants further object to the extent this Request seeks documents not in the possession, custody or control of defendants. Defendants further object to the mischaracterization in this request, as defendants never "admitted" that "expert reports" exist in their possession or custody. Subject to and without waiving

these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further respond that it has produced Defendants' testifying expert reports, pursuant to the Scheduling Order on December 14, 2011 and January 13, 2012. Further answering, Defendants are not aware of any expert reports in existence before the Legislature enacted Acts 43 and 44.

REQUEST FOR PRODUCTION NO. 4:

Please produce any and all documents related to retaining the core population of Wisconsin's prior (2002) districts, including but not limited to any data or analyses used by the legislature and/or its various bodies, or those individuals on the legislature's behalf to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 4 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to core population of districts that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 5:

Please produce any and all documents related to maintaining communities of interest, including but not limited to any data or analyses, used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 5 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to communities of interest that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 6:

Please produce any and all documents related to shifting populations from even to odd state senate districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 6 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to shifting populations that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 7:

Please produce any and all documents related to establishing compact districts, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 7 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to compact districts that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 8:

Please produce any and all documents related to minority voters, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 8 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, Tad Ottman and Professor Ronald Keith Gaddie and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to minority voters that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 9:

Please produce any and all documents related to the preservation of political subdivision boundaries (e.g., counties, municipalities, wards and district lines drawn by local political units), including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 9 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to preservation of political subdivision boundaries that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 10:

Please produce any and all documents related to the partisan make-up and effect, including but not limited to any data or analyses, that were used by the legislature and/or its various bodies, or those individuals on the legislature's behalf, to draw the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 10 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that this request is ambiguous and unclear. To the extent this Request seeks documents that the Legislature created, used or relied upon to draw the 2011 redistricting maps enacted as Acts 43 and 44, Defendants direct Plaintiffs to the deposition testimony of Joseph Handrick, Adam Foltz, and Tad Ottman and the documents provided by the Legislature to all parties. To the extent this document request seeks documents relating to partisan make-up and effect that were created after Acts 43 and 44 were enacted, Plaintiffs should see the expert reports submitted by Defendants in this matter.

REQUEST FOR PRODUCTION NO. 11:

Please produce any and all documents related to the involvement of Democratic legislators in drawing the 2011 redistricting maps enacted as Acts 43 and 44.

RESPONSE:

Defendants object to Request No. 11 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further object that discovery is still on-going, including Defendants' planned depositions of Rep. PeterBarca, Joel Gratz and representative(s) of The Shop Consulting, which should reveal additional documents related to this request. Further answering, Defendants produce herewith the (publicly-available) official summary of the timeline of the Legislature in its steps to enact Acts 43 and 44.

REQUEST FOR PRODUCTION NO. 12:

Please produce any and all documents related to census data from 1970 through 2010, including but not limited to, any documents detailing population growth and changes from 1970 through 2010.

RESPONSE:

Defendants object to Request No. 12 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request. Defendants further state that the report(s) of its testifying expert(s) shall be produced to plaintiffs pursuant to the Scheduling Order in this case.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further answer by stating the following: see Defendants' expert reports as it relates to the census data.

REQUEST FOR PRODUCTION NO. 13:

Please produce any and all documents used by the legislature to create the 2011 districts enacted as Acts 43 and 44.

RESPONSE:

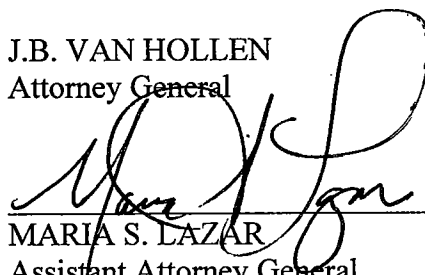
Defendants object to Request No. 13 to the extent it seeks documents not in the possession, custody or control of defendants. Defendants further object to the request to the extent plaintiffs have access to the documents and data requested. Without waiving these objections and the foregoing General Objections, defendants will produce relevant, non-privileged documents in its possession, custody or control (including documents it obtains from third-parties) that defendants reasonably understand to be responsive to this request.

SUPPLEMENTAL ANSWER:

Without waiving the Objections made and incorporated in Defendants' original answer, Defendants further answer by directing Plaintiffs to the depositions of Joseph Handrick, Adam Folz, Tad Ottman and Professor Ronald Keith Gaddie and documents produced by those individuals and/or the Legislature.

Dated this 3rd day of Feb, 2012.

J.B. VAN HOLLEN
Attorney General



MARIA S. LAZAR
Assistant Attorney General
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice
Post Office Box 7857

Madison, Wisconsin 53707-7857
(608) 267-3519
(608) 267-2223 (fax)
lazarms@doj.state.wi.us

Reinhart Boerner Van Deuren S.C.

PATRICK J. HODAN
State Bar #1001233

DANIEL KELLY
State Bar #1001941

COLLEEN E. FIELKOW
State Bar #1038437

Attorneys for Defendants

Reinhart Boerner Van Deuren, S.C.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202
(414) 298-1000
(414) 298-8097 (fax)
phodan@reinhartlaw.com
dkelly@reinhartlaw.com
cfielkow@reinhartlaw.com

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VERIFICATION OF SUPPLEMENTAL INTERROGATORY ANSWERS

STATE OF WISCONSIN)
) SS
DANE COUNTY)

Kevin Kennedy, being first duly sworn on oath, deposes and says:

That he has read this document, and knows its contents; that these responses were prepared with the assistance and advice of counsel and employees and agents of defendants, upon whose advice and information he has relied; that the responses set forth above, subject to inadvertent or undiscovered errors, are based on and limited by the records and information still in existence, and thus far discovered in the course of the preparation of these responses; that he and defendants consequently reserve the right to make any changes in the responses if it appears at any time that omissions have been made or more information is available; that subject to these limitations these responses are complete to the best of his knowledge, information and belief.

By: Kevin J. Kennedy
Kevin Kennedy

Subscribed and sworn to before me
this 2 day of February, 2012
[Signature]
Notary Public, State of Wisconsin
My Commission [Signature]

2011-2012 Wisconsin Legislature

Senate Bill 148

An Act to repeal 4.001 (2) to (5), 4.004 and 4.005; to renumber and amend 4.001 (1); to repeal and recreate 4.002, subchapter II of chapter 4 [precedes 4.009] and subchapter III of chapter 4 [precedes 4.01]; and to create 4.006 and 13.92 (1) (b) 3. e. of the statutes; **relating to:** legislative redistricting.

Status: S-Enacted into Law

History

- 7/11/2011 S. Introduced by committee on Senate Organization
- 7/11/2011 S. Read first time and referred to committee on Judiciary, Utilities, Commerce, and Government Operations
- 7/11/2011 S. Senate amendment 1 offered by committee on Senate Organization
- 7/13/2011 S. Public hearing held
- 7/14/2011 S. Senate amendment 2 offered by Senator Zipperer
- 7/15/2011 S. Executive action taken
- 7/15/2011 S. Report adoption of Senate Amendment 2 recommended by committee on Judiciary, Utilities, Commerce, and Government Operations, Ayes 3, Noes 2
- 7/15/2011 S. Report passage as amended recommended by committee on Judiciary, Utilities, Commerce, and Government Operations, Ayes 3, Noes 2
- 7/15/2011 S. Available for scheduling
- 7/18/2011 S. Placed on calendar 7-19-2011 pursuant to Senate Rule 18(1)
- 7/19/2011 S. Read a second time
- 7/19/2011 S. Refused to refer to committee on Senate Organization, Ayes 14, Noes 19
- 7/19/2011 S. Senate amendment 2 adopted, Ayes 19, Noes 14
- 7/19/2011 S. Ordered to a third reading
- 7/19/2011 S. Rules suspended
- 7/19/2011 S. Read a third time and passed, Ayes 19, Noes 14
- 7/19/2011 S. Ordered immediately messaged
- 7/19/2011 A. Received from Senate
- 7/19/2011 A. Read first time and referred to calendar of 7-20-2011 pursuant to Assembly Rule 93
- 7/20/2011 A. Read a second time
- 7/20/2011 A. Refused to refer to committee on Election and Campaign Reform, Ayes 38, Noes 59
- 7/20/2011 A. Point of order that the bill is not properly before the Assembly because it violates the Voting Rights Act of 1965 and the United States Constitution not well taken
- 7/20/2011 A. Decision of the Chair appealed
- 7/20/2011 A. Decision of the Chair upheld, Ayes 58, Noes 39
- 7/20/2011 A. Assembly substitute amendment 1 offered by Representatives Hulsey, Pocan, Barca, Berceau, Bernard Schaber, Bewley, Clark, E. Coggs, D. Cullen, Danou, Doyle, Fields, Grigsby, Hebl, Hintz, Jorgensen, Mason, Milroy, Molepske Jr, Pasch, Pope-Roberts, Radcliffe, Richards, Ringhand, Roys, Seidel, Shilling, Sinicki, Staskunas, Steinbrink, Toles, Turner, Vruwink, Young, Zamarripa and Zepnick

7/20/2011 A. Assembly substitute amendment 1 laid on table, Ayes 58, Noes 39
7/20/2011 A. Assembly amendment 1 offered by Representative Krusick
7/20/2011 A. Assembly amendment 1 laid on table, Ayes 96, Noes 1
7/20/2011 A. Ordered to a third reading
7/20/2011 A. Rules suspended
7/20/2011 A. Read a third time and concurred in, Ayes 57, Noes 40
7/20/2011 A. Ordered immediately messaged
7/21/2011 S. Received from Assembly concurred in
7/29/2011 S. Report correctly enrolled on 7-29-2011
8/2/2011 S. Presented to the Governor on 8-2-2011
8/9/2011 S. Report approved by the Governor on 8-9-2011. 2011 Wisconsin Act 43
8/10/2011 S. Published 8-23-2011